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8
9 **BEFORE THE**
10 **CALIFORNIA GAMBLING CONTROL COMMISSION**

11
12 **In the Matter of the Accusation Against:**

Case No. DGC # 03-00130-01

13 **ALBERT CIANFICHI, Sole Proprietor**
14 **KELLY'S CARDROOM**
15 **408 "O" Street**
16 **Antioch, CA 94509**

**STIPULATED SETTLEMENT
AND DISCIPLINARY ORDER**

17 **License Number 990002**

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
19 above-entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Robert E. Lytle, Jr. ("Complainant"), who is the Director of the Division of
22 Gambling Control ("Division") within the California Department of Justice and who brought the
23 above-entitled action solely in his official capacity, is represented in this matter by Christine M.
24 Murphy, Deputy Attorney General, Office of the Attorney General of the State of California.

25 2. Albert Cianfichi ("Respondent") is represented in this proceeding by Martin T.
26 Gonsalves, Esq., whose address is 511 West Third Street, Antioch, California 94509.

27 3. On or about February 28, 2001, the California Gambling Control Commission
28 ("Commission") issued State Gambling License Number 990002 to Albert Cianfichi, Sole
Proprietor of Kelly's Cardroom, 408 "O" Street, Antioch, California 94509 ("Respondent").

6. On or about May 18, 2006, the Commission approved an extension of the temporary certificate of license with conditions for State Gambling License Number 990002 to Respondent. The conditional state gambling license extension will expire September 30, 2006.

1 (d) Take actions deemed to be reasonable to ensure
2 that no ineligible, unqualified, disqualified, or unsuitable
3 persons are associated with controlled gambling
4 activities.

5 d. Business and Professions Codes section 19920, in relevant part, states:

6 [T]he willful or persistent use or toleration of methods of operation
7 deemed unsuitable by the commission or by local government shall
8 constitute grounds for license revocation or other disciplinary
9 action.

10 ADVISEMENT AND WAIVERS

11 8. Respondent has carefully read, fully discussed with counsel, and understands the
12 charges and allegations in the Accusation. Respondent has also carefully read, fully discussed
13 with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

14 9. Respondent is fully aware of his legal rights in this matter, including the right to a
15 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
16 his own expense; the right to confront and cross-examine the witnesses against him; the right to
17 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to
18 compel the attendance of witnesses and the production of documents; the right to reconsideration
19 and court review of an adverse decision; and all other rights accorded by the California
20 Administrative Procedure Act and other applicable laws.

21 10. Respondent voluntarily, knowingly, and intelligently waives and gives up each
22 and every right set forth above.

23 CULPABILITY

24 11. Respondent admits that he pleaded no contest to misdemeanor violations for
25 knowingly failing to provide wage statements and to secure worker's compensation insurance
26 and constituted unsuitable, unfair, and illegal practices in the carrying on of the business and
27 financial arrangements of the gambling establishment.

28 12. Respondent neither admits nor denies the remaining allegations in the Accusation
for Case No. DGC 03-00130-01, but accepts punishment for the other allegations. He waives
any right to challenge the remaining allegations in the Accusation for Case No. DGC 03-00130-

01 and agrees that his admission herein regarding the remaining allegations is equivalent of a "no contest" plea. In the event of a probation violation, however, the allegations will be deemed admitted.

13. Respondent agrees that his gambling license is subject to discipline and he agrees to be bound by the Commission's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

14. This Stipulated Settlement shall be subject to approval by the Commission. Respondent specifically agrees that, at any time following execution of this Stipulated Settlement, but prior to the Commission's decision whether to adopt this Stipulated Settlement as its decision and enter the Disciplinary Order, counsel for Complainant and the staff of the Division may communicate directly with the Commission regarding this stipulation and settlement, without notice to, or participation by, Respondent or his counsel, and that no such communications shall be deemed a prohibited ex parte communication. By signing the Stipulated Settlement and Disciplinary Order, Respondent understands and agrees that he may not withdraw this agreement or seek to rescind the stipulation prior to the time the Commission considers and acts upon it. If the Commission fails to adopt this Stipulated Settlement and Disciplinary Order as its decision and order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, and it shall be inadmissible in legal action between the parties. In the event the Commission fails to adopt this Stipulated Settlement and Disciplinary Order, neither the Commission's consideration of this Stipulated Settlement and Disciplinary Order, nor the Commission's consideration of communications from or with the Division concerning this Stipulated Settlement and Disciplinary Order, nor the fact that such communications may hereafter have occurred pursuant to this paragraph, shall in any way disqualify the Commission from any other or further action with respect to the respondent or the respondent's license.

15. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

16. In consideration of the foregoing admissions and stipulations, the parties agree that the Commission may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that original Gambling License Number 990002 issued to Respondent Alfred Cianfichi is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions:

1. **Penalty.** Respondent, in lieu of the imposition of a suspension, agrees to pay a fine of \$ 35,000. The fine must be paid by October 31, 2006. If the fine is not paid by October 31, 2006, a 60-day suspension of Respondent's license will be imposed as directed by the Commission.

2. **Practice Suitable Methods of Operation.** Respondent will not employ individuals who do not hold a valid work permit or license as required by the Gambling Control Act and the City of Antioch Municipal Code. Respondent will not permit the operation of promotional or other event activities in the gambling establishment by individuals that would be disqualified, pursuant to Business and Professions Code section 19859, to hold a state gambling license. Respondent will not offer any new gaming activity or alter the play of any currently authorized game in any manner without the prior approval of the Division.

3. **Obey all Laws.** Respondent shall obey all state and federal laws and regulations substantially related to, or governing the practice of, gambling establishments.

Respondent shall report any of the following occurrences to the Commission, in writing, within 72 hours of such occurrence:

1 • an arrest or issuance of a criminal complaint for violation of any provision of the
2 Gambling Control Act, state or federal gambling laws or state or federal labor laws that apply to
3 the operation of a gambling establishment;

4 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to
5 any criminal complaint, information or indictment, alleging violations of law other than traffic
6 infractions;

7 • a conviction of any crime, other than traffic violations; and

8 • discipline, citation, or other administrative action filed by any state or federal
9 agency that involves Respondent's license, or which is related to the conduct of controlled
10 gambling.

11 4. **Interview with the Commission and Division.** Upon receipt of reasonable
12 notice, Respondent shall appear in person for interviews with the Commission or Division upon
13 request at various intervals at a location to be determined by the requesting agency. Failure to
14 appear for a scheduled interview without prior notification to the requesting agency may be
15 considered a violation of probation.

16 5. **Cooperation with Commission and Division Staff.** Respondent shall cooperate
17 during routine Division inspections and in the Division and Commission's monitoring and
18 investigation of Respondent's compliance with the terms and conditions of probation. Failure to
19 comply may be considered a violation of probation.

20 6. **Reimbursement of Division Costs.** Respondent agrees to pay the Division
21 \$27,500 as reasonable costs for the investigation and prosecution of this matter. Payment of
22 these costs, however, will be stayed during the period of probation and will be waived if
23 Respondent complies with the terms and conditions of his probation and successfully completes
24 probation.

25 7. **Status of License.** Respondent shall, at all times while on probation, maintain an
26 active current license with the Commission, including any period during which suspension or
27 probation is tolled.

1 If Respondent's license expires or is canceled by operation of law or otherwise, upon
2 renewal or re-application, Respondent's license shall be subject to all terms and conditions of
3 this probation not previously satisfied.

4 **8. License Surrender While on Probation/Status.** Following the effective date of
5 this Stipulated Settlement and Disciplinary Order, should Respondent decide to cease operating
6 Kelly's Cardroom, or be otherwise unable to satisfy the terms and conditions of probation related
7 to the operation of the gambling establishment, Respondent may tender his license to the
8 Commission for surrender. Upon formal acceptance of the surrender of the license, Respondent
9 will no longer be subject to the terms and conditions of probation related to the operation of the
10 gambling establishment but will not be relieved of his obligation to pay the fine described in
11 paragraph 1 of the Disciplinary Order.

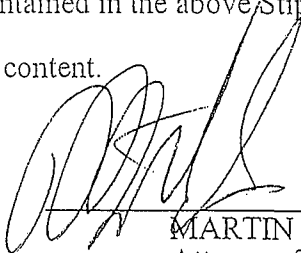
12 Upon formal acceptance of the surrender, Respondent may not reapply for any license
13 from the Commission for three years from the effective date of the surrender. Respondent shall
14 meet all requirements applicable to the license sought as of the date the application for that
15 license is submitted to the Commission.

16 **9. Violation of Probation.** If Respondent is found to have violated probation in any
17 respect, the Commission, after giving Respondent notice and an opportunity to be heard, may
18 revoke probation, carry out the disciplinary order which was stayed and require the payment of
19 the reasonable costs of investigation and prosecution described in paragraph 7. If a petition to
20 revoke probation or an accusation is filed against Respondent during probation, the Commission
21 shall have continuing jurisdiction and the period of probation shall be extended, until the petition
22 to revoke probation or accusation is heard and decided.

23 If Respondent has not complied with any term or condition of probation, the
24 Commission shall have continuing jurisdiction over Respondent, and probation shall
25 automatically be extended until all terms and conditions have been satisfied or the Commission
26 has taken other action as deemed appropriate to treat the failure to comply as a violation of
27 probation, to terminate probation, and to impose the penalty which was stayed.

1 I have read and fully discussed with Respondent Albert Cianfichi, the terms and
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary
3 Order. I approved its form and content.

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5 Dated: July 31, 2006

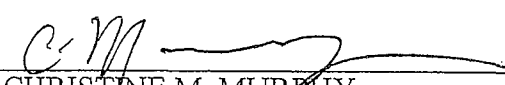

MARTIN T. GONSALVES
Attorney for Respondent

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8 **ENDORSEMENT**

9 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
10 submitted for consideration by the California Gambling Control Commission.

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12 Dated: ^{August} ~~July~~ 16, 2006

BILL LOCKYER
Attorney General of the State of California

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14 By: 
15 CHRISTINE M. MURPHY
16 Deputy Attorney General

17 Attorneys for Complainant
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STATEMENT BY EXECUTIVE DIRECTOR:

I have reviewed this Stipulation and recommend its approval.

Dated: 9-12-06

Signature: Steve Giorgi

Steve Giorgi, Executive Director

DECISION AND ORDER OF THE COMMISSION:

The foregoing Stipulation has been adopted by a majority vote of the Commission as its final decision and order in this matter and is effective upon execution below by the Commission Chair.

IT IS SO ORDERED.

Dated: 9-14-06

Signature: Dean Shelton

Dean Shelton, Commission Chair